

3 AAC is amended by adding a new chapter to Part 17 to read:

**Chapter 198. Library Construction and Major Expansion
Matching Grant Program.**

Section

- 10. Applicability
- 20. Uses of grant
- 30. Eligible applicant
- 40. Maximum amount of grant
- 50. Local match
- 60. Application
- 70. Consideration of application
- 80. Standards for decision on grant application
- 90. Priority for grant approval
- 100. Administrative hearing
- 110. Acceptance of grant offer; grant conditions
- 120. Withheld money
- 130. Project audit
- 140. Grant program administration
- 150. Waiver of sovereign immunity
- 990. Definitions

Register 192, Jan 2010 COMMERCE, COMMUNITY, AND EC. DEV.

3 AAC 198.010. Applicability. This chapter applies to the public library construction and major expansion matching grant program established in AS 14.56.355. (Eff. 1 / 1 / 2010

Register 192)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.020. Uses of grants. An eligible applicant that receives a grant under this section

(1) shall use the grant to

(A) construct a new public library; or

(B) make a major expansion to an existing public library;

(2) may not use the grant for

(A) costs of ordinary maintenance and operating expenses of a ^(public) library;

(B) equipment or furnishings that are not part of the construction or major expansion of a public library; or

(C) other purposes not authorized under AS 14.56.355 and 14.56.356.

(Eff. 1 / 1 / 2010, Register 192)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.030. Eligible applicant. (a) The following are eligible applicants that may submit a proposal under this chapter:

(1) municipality;

(2) Native Village Council;

(3) community in the unorganized borough, if the community

(A) is an incorporated nonprofit ^(organization) entity in good standing under AS 10.20;

and

(B) agrees to receive and spend the grant money for the applicable purpose specified in this chapter.

(b) If a community has more than one of the organizations described in this section, and each is eligible to receive a grant, the department will determine which organization is to receive the grant money. In making this determination, the department will consider factors relevant to achieving the purpose of the grant, including the

(1) administrative capability of each incorporated nonprofit organization, including past performance on any previous grant awards;

(2) ability of each incorporated nonprofit organization to manage its debt and other finances;

(3) degree to which each incorporated nonprofit organization is representative of the community; and

(4) purpose for which each incorporated nonprofit organization intends to spend the grant money. (Eff. 1 / 1 / 2010 Register 192)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.040. Maximum amount of grant. (a) Subject to appropriation, the department may make grants under the program in an amount not to exceed 50 percent of the total proposed grant project costs.

(b) For purposes of AS 14.56.355(c) and this section, the total proposed grant project costs for a public library that is combined with a municipal or other community facility includes

Register 192, Jan 2010 COMMERCE, COMMUNITY, AND EC. DEV.

only those costs that are attributable, as determined by the department, to uses relating to construction of a public library within the proposed combined facility. (Eff. 1 / 1 / 2010

Register 192)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.050. Local match. (a) An applicant must provide, as a local match, the portion of the total proposed grant project costs not met by the grant payable under AS 14.56.355 and 14.56.356 and this chapter.

(b) The local match may be in the form of

(1) money; if the applicant is a governmental entity, the money must come from unrestricted locally generated revenue of the applicant;

(2) land; or

(3) services. (Eff. 1 / 1 / 2010 Register 192)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.060. Application. (a) An applicant must apply for a grant on a form provided by the department.

(b) The application must include

(1) a detailed study outlining the library space needs of the community and library service area in which the project will be constructed, with projections for use of the facility for a period of not less than 20 years;

(2) a detailed description of the project, the associated costs of the project, and the funding sources that will support construction of the project and the operation and maintenance of the public library after construction; and

(3) assurances that

(A) the applicant will provide the local match required by AS 14.56.356 and 3 AAC 198.050; and

(B) ownership of a public library to be constructed or to undergo a major expansion with money received under the grant will conform to the requirements of AS 14.56.356 and this chapter.

(c) In addition to the requirements of (b) of this section, if the application for a grant is for the construction or major expansion of a combined facility in which the public library is to be located as part of a municipal or other community facility, the applicant shall submit a copy of a valid agreement between the governing body of the public library, and

(1) the governing body of the community, if the application is for a combined facility in a community building;

(2) the board, committee, or other organization managing or operating the portion of a community facility not used for library purposes, if the application is for a combined facility for which a community is not responsible.

(d) The agreement provided under (c) of this section must clearly delineate the responsibilities of the public library, the community, or other organization, with provisions for

(1) financial responsibility for the maintenance and care of the combined facility;

(2) library personnel;

(3) use of equipment; and

Register 192, Jan 2010 COMMERCE, COMMUNITY, AND EC. DEV.

(4) hours of service.

(e) Nothing in this section makes a public or private school library eligible for a grant under AS 14.56.355 and 14.56.356. (Eff. 1 / 1 / 2010 Register 192)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.070. Consideration of application. Before making a final decision on a grant application, the department will

(1) consult with the applicant about the proposed project; and

(2) allow an applicant to submit an amended application. (Eff. 1 / 1 / 2010

Register 192)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.080. Standards for decision on grant application. (a) The department will make a decision on a grant application or amended application for a grant under AS 14.56.355 and 14.56.356 and this chapter based on the

(1) compliance of the proposed project with minimum space requirements as follows:

(A) for a project serving a community with an estimated population of fewer than 400: at least 800 square feet;

(B) for a project serving a community with an estimated population of 400 - 1,000: at least 1,200 square feet;

(C) for a project serving a community with an estimated population of more than 1,000: 2,000 square feet or 0.7 square feet per capita, whichever is greater;

(2) compliance of the proposed project with applicable municipal, state, and federal law, including 42 U.S.C. 12101 - 12213 (Americans with Disabilities Act);

(3) conformance of the proposed project to the needs of the community and the anticipated users of the ^(public) library;

(4) suitability of the proposed project to meet the library needs of the community for at least 20 years;

(5) appropriateness of the amount requested in the grant application to the proposed project and the library requirements of the community served by the applicant; and

(6) ability of the applicant to operate and maintain the proposed project, including an evaluation of the applicant's past performance in operating a library, if applicable.

(Eff. 1/1/2010 Register 192)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.090. Priority for grant approval. During a fiscal year, if amounts requested in grant applications approved by the department under 3 AAC 198.080 exceed amounts appropriated for payment of grants, the department will give priority to grants as follows:

(1) the first priority is given to an application submitted by a community that does not have a public library, but has created a plan for public library service;

(2) ⁹(B) the second priority is given to an application that the commissioner, in consultation with the division within the Department of Education ^(and Early Development) that oversees libraries, evaluates as having the highest beneficial impact on the provision of library services to the public.

Register 192, Jan 2010 COMMERCE, COMMUNITY, AND EC. DEV.

(b) If there are projects that are ranked as relatively equal under (a)(2) of this section, the department will give preference to an applicant that has not previously received a grant under AS 14.56.355 and 14.56.356 and this chapter. (Eff. 1 / 1 / 2010, Register 192)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.100. Administrative hearing. The department will send an applicant written notice of the department's decision under AS 14.56.355 and 14.56.356 and this chapter. Within 30 days after the date that notice is sent, an applicant for a grant who is dissatisfied with a decision by the department under AS 14.56.355 and 14.56.356 and this chapter may obtain an administrative hearing of that decision by making a request to the commissioner. The request must be in writing, and will be considered filed on the date the department receives it. The request must clearly state each objection to the department's decision, the justification for each objection, and the reasons why the applicant should receive a grant in the amount sought. The commissioner will request the office of administrative hearings to conduct the administrative hearing under AS 44.64.030(b). A hearing will be conducted under AS 44.64.060(c) - (e) and 2 AAC 64.100 - 2 AAC 64.370. (Eff. 1 / 1 / 2010, Register 192)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.110. Acceptance of grant offer; grant conditions. (a) Upon issuance of a final award determination under this chapter, the department and the applicant will develop a grant agreement. If the applicant does not enter into a grant agreement satisfactory to the department within 60 days after the final award, the department may consider the award rejected. A recipient of a final award determination does not have a vested right or other entitlement to a

grant until a mutually acceptable definitive written agreement is negotiated and is executed by the department.

(b) In the grant agreement, the department will

(1) incorporate the audit requirements of 3 AAC 198.130 and the applicable audit requirements under 2 AAC 45.010;

(2) set out a payment schedule for the amount of the grant to be paid by the department under 3 AAC 198.040, exclusive of the amount that the department withholds under 3 AAC 198.120;

(3) include a statement of the rights and responsibilities of the department and the applicant regarding the proposed project;

(4) require the applicant to procure, maintain, and demonstrate liability, hazard, or workers' compensation insurance;

(5) designate required policy limits; and

(6) require the applicant to provide assurances that the project, when constructed or expanded, will be operated as a public library for not less than 20 years or for the life of the building, whichever is less.

(c) During the term of a grant agreement, the applicant shall maintain and provide, at the department's request, all grant-related records, reports, invoices, documents, or other information required under the grant agreement.

(d) A grant agreement with a community or a corporation must be accompanied by a resolution sufficient to bind the applicant to the terms of the agreement. (Eff. 1 / 1 / 2010 Register 192)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.120. Withheld money. The department will not pay to the grantee more than 50 percent of the amount that the department approved as a grant until the grantee files and the department approves a project audit as required by 3 AAC 198.130. (Eff. 1 / 1 / 2010 Register 192)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.130. Project audit. (a) In addition to complying with the applicable audit requirements under 2 AAC 45.010, the grantee shall file a project audit for final payment with the department when a project has been completed.

(b) The project audit must include

(1) a narrative report outlining the tasks associated with project completion;

(2) a final financial progress report by the grantee of all receipts and expenditures for the project; and

(3) the grantee's certification that all project expenditures conform to law.

(c) If the grantee fails to provide a final financial progress and narrative report as required under (b) of this section, the department will notify the grantee of the failure and give 30 days after the date of notification to comply with this section. If the grantee continues to fail to comply with this section, the department will

(1) lapse the amount withheld for the project under 3 AAC 198.120; and

(2) require repayment of all or a portion of the grant that has been paid to the grantee for the project.

(d) Subject to appropriation, money lapsed or repaid under (c) of this section must be

Register 192, Jan 2010 COMMERCE, COMMUNITY, AND EC. DEV.

deposited into the grant account from which public library construction accounts are paid.

(Eff. 1 / 1 / 2010 Register 192)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.140. Grant program administration. (a) The department will require a grantee to repay all or any portion of the amount of the grant paid to the grantee if the department determines that grant money has been used in a way that violates assurances given by the grantee under 3 AAC 198.110.

(b) Subject to appropriation, money repaid under (a) of this section may be deposited into the grant account from which the grants are paid. (Eff. 1 / 1 / 2010 Register 192)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.150. Waiver of sovereign immunity. If the grantee is an entity that possesses sovereign immunity, the grantee must agree as a condition of receiving a grant that the grantee irrevocably waives its sovereign immunity with respect to enforcement of the grant agreement or claims related to the grant agreement. The waiver of sovereign immunity must be on a form approved by the Department of Law. (Eff. 1 / 1 / 2010 Register 192)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.990. Definitions. In this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of the Department of Commerce, Community, and Economic Development;

(2) "community" means a place in which 25 or more individuals reside as a social

Register 192, Jan 2010 COMMERCE, COMMUNITY, AND EC. DEV.

unit;

(3) "department" means the Department of Commerce, Community, and Economic Development;

(4) "grant" means a grant applied for or awarded under the program;

(5) "municipality" has the meaning given in AS 29.71.800;

(6) "Native village council" means

(A) a council organized under 25 U.S.C. 476 (sec. 16 of the Indian Reorganization Act);

(B) the council for the Annette Island Reserve established by 25 U.S.C. 495 for the Metlakatla Indian Community; or

(C) a traditional village council recognized by the United States as eligible for federal aid to Indians;

(7) "operating expenses"

(A) means expenses for personal services, communications, library materials, supplies, equipment, and other services necessary to provide library services;

(B) does not include construction expenses;

(8) "program" means the public library construction and major expansion matching grant program under AS 14.56.355 and 14.56.356 and this chapter;

(9) "public library" means a library as described in AS 14.56.356(a)(2). (Eff.

1 / 1 / 2010, Register 192)

Authority: AS 14.56.355 AS 14.56.356

Craig E. Campbell
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520 465.5400 Fax
WWW.LTGOV.ALASKA.GOV




530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460 269.0263
LT.GOVERNOR@ALASKA.GOV

OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA

MEMORANDUM

TO: Tyson Fick, AAC Contact
Department of Commerce, Community, and Economic Development

FROM: Benjamin Shier 
Special Assistant
907.465.4081

DATE: December 2, 2009

RE: Filed Permanent Regulations: Department of Commerce, Community, & Economic Development

Library Construction and Major Expansion Matching Grant Program: 3 AAC 198

Attorney General File:	JU2009200242
Regulation Filed:	12/2/2009
Effective Date:	1/1/2010
Print:	192, January 2010

cc with enclosures: Linda Miller, Department of Law
Jim Pound, Administrative Regulation Review Committee
Judy Herndon, LexisNexis
Tara Jollie, CED
Gail Dabaluz, CED

Dabaluz, Gail M (CED)

From: Shier, Benjamin P (GOV)
Sent: Wednesday, December 02, 2009 3:01 PM
To: Fick, Tyson C (CED)
Cc: Cramer, John W (GOV); Shier, Benjamin P (GOV); Behr, Deborah E (LAW); Miller, Linda J (LAW); Weaver, Steven C (LAW); Messing, Kevin J (LAW); Pound, Jim (LAA); Jollie, Tara L (CED); Dabaluz, Gail M (CED)
Subject: Regulations Filed: JU2009200242
Attachments: JU2009200242.pdf

On 12/2/2009, Lieutenant Governor Craig E. Campbell filed regulations (**JU2009200242**) from the Department of Commerce, Community, & Economic Development re: **Library Construction and Major Expansion Matching Grant Program** (3 AAC 198).

The effective date of the regulations is **1/1/2010**, and the regulations will be published in **Register 192, January 2010**.

The filing certification and regulation text are attached. Unless requested, no hard copies will be mailed.

Thank you,

BENJAMIN SHIER

Special Assistant

Office of Lieutenant Governor Craig E. Campbell

P.O. Box 110015
Juneau, AK 99811
PHONE: 907.465.3520
FAX: 907.465.5400

benjamin.shier@alaska.gov
www.ltgov.alaska.gov